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PRINCIPLES ON STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS FOR USE BY STATES, ENTITIES AND REGIONAL ORGANIZATIONS

(Comments submitted by the United States of America on a guide to the issues before the Conference prepared by the Chairman)

The United States wishes to express its appreciation for the document presented by the Chairman on subjects and issues for the guidance of the Conference (A/CONF.164/10). The introductory material on the background of the Conference setting forth the relevant provisions of the United Nations Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks, as well as the relevant provisions of the Convention that deal with conservation and management of living marine resources, is particularly helpful. The distinct treatment of straddling fish stocks and highly migratory fish stocks contained in the Convention is fundamental.

The United States believes that the Conference should identify and assess the urgent problems related to the conservation and management of straddling fish stocks and highly migratory fish stocks, before focusing on the form of the outcome of the Conference. The Chairman's guide has identified issues to be addressed, and the United States submits the following general principles which should be considered for use by States, entities, and regional organizations.

I. THE NATURE OF THE CONSERVATION AND MANAGEMENT MEASURES TO BE ESTABLISHED THROUGH COOPERATION

1. Conservation regimes should recognize the principle of conserving resources at levels no less than those which will produce the long-term maximum sustainable yield, rather than short-term profits.

2. Conservation regimes should emphasize multi-species, ecosystem-oriented management.

3. Allowable catch levels should be established based upon the best available scientific information and should take into account uncertainties concerning the size and productivity of the resource and its interrelationships with other resources.

4. Fish stocks should be managed in a precautionary manner, recognizing that this approach does not necessarily require a moratorium on fishing in a particular case, but that utilization should maintain the stocks at a productive level and preserve future use options.

5. States, entities and regional organizations should collect and share catch and effort data, including by-catch data, in an agreed format and time-frame. The United States has prepared a separate information paper entitled "Statistical reporting on high seas fisheries" regarding this important subject.

6. States and entities should conduct scientific activities. Stock assessments should accompany fishing and be conducted with the cooperation and participation of other States and entities. The status of both target and associated species should be monitored to verify that catch levels are not having unacceptable impacts. Scientific cooperation should be encouraged.

7. States, entities and regional organizations should promote environmentally safe fishing technologies and responsible fishing practices, including minimizing pollution, by-catch and other forms of waste. The United States fully supports the development by the Food and Agriculture Organization of the United Nations (FAO) of an international code of conduct for responsible fishing.

8. Regional organizations should include efficient decision-making processes, which could include dispute-settlement mechanisms which could be readily invoked and which would dispose of disputes expeditiously.

II. THE MECHANISMS FOR COOPERATION

1. Concerned States and entities should cooperate to form organizations or bodies responsible for establishing conservation regimes in specific geographical regions.

2. States and entities should join and/or cooperate with regional organizations for the conservation and management of fishery resources if they fish such resources in a specified geographical area. New members of a conservation regime should generally be entitled to accrue benefits from the obligations that they share to conserve the resource. However, all States and entities should give due consideration to the ramifications that would result from their initiating a new fishery on a resource which is already fully utilized.

3. States and entities should prevent flagging of vessels for the purpose of avoiding conservation regimes or any other activity that would undermine the conservation and management of resources. The United States strongly

supports the initiative of the FAO to conclude as a matter of priority a global legally binding regime on the flagging of vessels authorized to operate on the high seas. States and entities should cooperate to prevent fishing by non-members that undermines conservation and management measures. Effective remedies could include measures against those operating in a manner that undermines conservation measures.

4. Assistance and consideration should be available to developing countries to enable them to develop their capabilities while fulfilling their obligations relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.

III. RESPONSIBILITIES OF REGIONAL FISHERIES ORGANIZATIONS OR ARRANGEMENTS

1. The conservation programmes established by States and entities should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea.

2. Regional organizations or arrangements should emphasize multi-species, ecosystem-oriented management and other approaches which take into account the relationships among species and their habitats. The differences among resources should also be taken into account, and the fact that the principles which apply to one species, or group of species, may not apply to all others.

3. Regional organizations or arrangements should include provisions to establish conditions for allowing entry by new participants, on a case-by-case basis.

4. Regional organizations or arrangements should address monitoring, control, surveillance and enforcement.

5. Regional organizations or arrangements should encourage scientific cooperation, including the collection and sharing of relevant catch and effort data, including by-catch data, as well as other data - biological or otherwise - in an agreed format and time-frame.

6. Regional organizations or arrangements should be transparent. Organizations and individuals concerned with straddling fish stocks and/or highly migratory fish stocks should be afforded the opportunity to participate in meetings of such bodies as observers or as is otherwise appropriate.

IV. COMPLIANCE WITH CONSERVATION AND MANAGEMENT MEASURES

Flag States and entities should ensure that their vessels follow agreed conservation and management measures (including effective monitoring, control and surveillance) and should establish adequate penalties to deter violations. Flag States and entities should ensure that their fisheries are adequately regulated and monitored to permit timely assessment of

environmental impacts and the state of the exploited resource. The United States has prepared a separate information paper entitled "Monitoring high-seas fishing vessel operations by satellite", which provides a description of the experience of the United States in the use of remote sensing and satellite monitoring systems to collect real-time data for use in monitoring, control and surveillance of high seas fisheries conservation and management measures on a cost-effective basis.

V. ENFORCEMENT OF HIGH SEAS FISHERIES, CONSERVATION AND MANAGEMENT MEASURES

See section IV above.

VI. NON-PARTIES TO A REGIONAL AGREEMENT OR ARRANGEMENT

See section II above.

VII. SETTLEMENT OF DISPUTES ON MATTERS OF A TECHNICAL NATURE

See section I above.

VIII. COMPATIBILITY AND COHERENCE BETWEEN NATIONAL AND INTERNATIONAL CONSERVATION MEASURES FOR THE SAME STOCKS

1. Regional organizations or arrangements should include the geographical area of the fish stock or stocks being covered, taking into account any special environmental, biological, or other characteristics of the region or stocks concerned.

2. Because straddling fish stocks and highly migratory fish stocks migrate on both the high seas and within exclusive economic zones, interest with regard to these resources relating to both areas needs to be considered, consistent with the United Nations Convention on the Law of the Sea.

REVIEW OF IMPLEMENTATION

The United States proposes that States, entities and regional organizations concerned with the conservation and management of straddling fish stocks and highly migratory fish stocks should be encouraged to implement the foregoing principles regionally, based on the specific resource and social needs in each region concerned. They should report annually on the implementation of the principles to the Secretary-General, who should submit a report to the General Assembly on a regular basis.